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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,534	10/12/2005	Frederic Plessis	0688-1001	1504
465 7590 12/16/2008 YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			EXAMINER EPSTEIN, BRIAN M	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 12/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,534

Applicant(s)

PLESSIS ET AL.

Examiner

BRIAN EPSTEIN

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20050214 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Status of the Claims

1. Claims 1-13 were originally filed with the application on February 14, 2005. On the same date, an amendment to the claims was filed canceling the originally filed claims 1-13 and adding new claims 14-26. Since the newly filed claims were filed on the same day as the application pending here, examiner has concluded the newly filed claims 14-26 to not be new matter and has therefore entered the new claims. Therefore, claims 14-26 are currently pending in this application, claims 1-13 having been canceled and the first office action on the merits in this application, found below, will consider only claims 14-26.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Specification

3. The disclosure is objected to because of the following informalities: The specification is not broken down with the appropriate headings.

Appropriate correction is required. Examiner kindly requests applicant to format any filed amendment to the specification in the formatting below.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in

upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 14-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 14-23 are drawn to a computer program per se. Computer programs per se intrinsically require no tangible physical structure, thus do not constitute tangible physical articles or other forms of matter. Therefore, computer programs per se are not considered to be statutory subject matter. To be statutory, a computer program must be: (1) coupled with or combined with some

statutory physical structure, and, (2) produce or effect some useful, concrete, and tangible result. See MPEP § 2106.01. Claims 14-23 merely recite software elements used to allow a user to define a calculation formula that could be used in an electronic costing system designed to automatically calculate the costs of an item. Both the "acquisition module," and the "module designed to convert the structure into directly readable format," are little more than software modules that allow a user to create a formula, which itself is software which can be used by a system to calculate price/cost.

6. Claim 24 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. 35 USC 101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof" (emphasis added). Applicant's claim 24 is intended to embrace or overlap *two* different statutory classes of invention as set forth in 35 USC 101. Claims 14-23 begin by discussing software (i.e. an electronic editor for formula) and the body of the claims discusses the specifics of the software by defining the modules of the software and the intended uses of the modules. Claim 24 refers back to claims 1-23 so that it appears to depend from any of those claims, but it is drafted as a system comprising an apparatus elements which are capable of storing information. Therefore, at the very best, claim 24 encompasses two statutory classes, i.e. a machine/system and a software/article of manufacture. A claim of this type is precluded by the express language of 35 USC 101 which is drafted so as to set forth the statutory classes of invention in the alternative only", Ex parte Lyell (17 USPQ2d 1548).

7. Claims 25-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 25-26 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus and further, fail the second prong of the new Federal Circuit decision since they do not transform the underlying subject matter. For example, both the acquisition step where the claimed formula is acquired by an electronic calculator and the automatic conversion step where the tree structure is converted into a format readable by an electronic costing system can be completed using a combination of mental thinking and pen and paper.

Claim Rejections - 35 USC § 112 -2nd Paragraph

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Examiner has pointed out a plurality of §112 2nd paragraph errors below, however examiner requests applicant to review claims 14-26 for other similar errors

since claims 14-26, as filed, are replete with errors rendering the claims indefinite and unclear, before filing any reply to this office action.

10. Claims 14-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites, "an electronic calculator capable of defining the calculation formula... and storing it in the first means for storing information." It is unclear as to whether the electronic calculator does or does not define the calculator formula and/or store it (the formula?) in a first means. It appears that claim 14, as currently presented, merely recites the intended use of the electronic calculator since the claim limitations merely recite what the electronic calculator is capable of doing and does not define what the electronic calculator actually does or does not do. Further, claim 14 recites "storing it in the first means..." This language is indefinite since it is unclear as to what "it" is. For the purposes of this office action, examiner reads claim 14 to be written as, "storing the calculation formula in a first means..."

11. Claims 14-23 are further rejected under 35 U.S.C. §112-2nd paragraph since claim 14 recites "storing it in the first means for storing information." There is insufficient antecedent basis for this limitation in the claim.

12. Claims 14-23 are further rejected under 35 U.S.C. §112-2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention since claim 14 further recites "a module designed to convert automatically the acquired tree structure...and to store the converted tree

structure in the first means..." This language is indefinite since it is unclear as to whether the module does or does not convert automatically the acquired tree structure...and/or store the converted tree structure in the first means. It appears that this limitation of claim 14, as currently presented, merely recites the intended use of the claimed module since the claim limitation merely recites what the module is designed to do and does not define what the module actually does or does not do.

13. Claims 16-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 16-22 are claimed as to further define the functionality of the acquisition module which is claimed in claim 13. However, claims 16-22 are indefinite since they merely require that "the acquisition module is capable of creating..." It is unclear as to whether the acquisition module actually performs the claimed limitations or not. It appears that claims 16-22, as currently presented, merely recite the intended use of the acquisition module as claimed in claim 13. For the purposes of this office action, examiner reads the limitations "where the acquisition module is capable of..." as the intended use of the acquisition module since the claims merely recite the capability of the module to do something under the control of a user, and has accorded such intended use little patentable weight.

14. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 recites, "wherein it comprises." This language is indefinite since it is unclear as to what "it" is. For the purposes of this office action,

examiner reads claim 23 to be written as, "Editor according to claim 14, wherein the editor further comprises second means for storing..."

15. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 24 recites an "electronic system for costing designed to establish automatically the price...with the aid of a calculation formula defined by an electronic editor according to any one of the preceding claims." This language is indefinite for multiple reasons. First, the language is indefinite since claim 24 appears to be written as an independent claim, claiming a system, instead of as a dependent claim, claimed as further defining any of the claims 14-23 which recite software modules. Further, claim 24 is indefinite even if read as a dependent claim since it is unclear as to which of the preceding claims claim 24 is intended to further limit. For purposes of this office action, examiner is interpreting claim 24 as an independent system claim. Examiner kindly requests applicant to consider MPEP § 608.01(n).

16. Claim 24 is further rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 24 recites, "wherein it comprises." This language is indefinite since it is unclear as to what "it" is. For the purposes of this office action, examiner reads claim 24 to be written as, "...wherein the system comprises..."

17. Claims 25-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 25 recites "an acquisition step of said formula

by an electronic calculator in the form of a tree structure...in which said operations have to be carried out by the electronic costing system." It appears that this limitation is a foreign translation. It appears that the limitations written after "in the form of a tree structure," is merely nonfunctional descriptive material and is thus accorded little patentable weight. Further, the claims are narrative in form and replete with indefinite and functional or operational language.

18. Claims 25-26 are further rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention since claim 25 recites, "wherein it comprises." This language is indefinite since it is unclear as to what "it" is. For the purposes of this office action, examiner reads claim 24 to be written as, "...wherein the method comprises..."

Claim Rejections - 35 USC § 102

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20. Claims 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Carter III, (US 5,878,400).

21. As per **claim 24**, Carter teaches an electronic system for costing designed to establish automatically the price of a service from information on the service consumed,

contained in the consumption variables and with the aid of a calculation formula defined by an electronic editor, the system comprising:

- a. a receiver for information on the service consumed capable of storing this information in the consumption variables (Column 7, lines 5-47; Column 8, lines 1-38), and;
 - b. means for storing information containing the formula for calculating the price of the service (Column 5, lines 7-53), wherein the system comprises an electronic calculating unit (Column 9, lines 40-63) capable of executing the operations associated with the nodes and ending of the calculation formula, in response to information received by the receiver so as to pass through the tree structure of the calculation formula from the root node to at least one of the endings by executing successively the conditional activation operation of the father nodes, then solely the conditional activation operation associated with the activated child nodes until at least one ending associated with the operation to calculate a price has been activated and to execute the ending to establish automatically the price of the service (Column 9, lines 40-63; Column 10, lines 15-43).
22. As per **claim 25**, Carter teaches a method for defining a formula for calculating the price of a service in a directly readable format by an electronic costing system, the electronic costing system being capable, with the aid of said formula, of establishing the price of a service from information on the service consumed contained in consumption variables, wherein the method comprises:

a. an acquisition step of said formula by an electronic calculator in the form of a tree structure (Column 3, lines 29-63) formed from nodes connected to one another by arcs, each node being associated with an operation designed to be executed by the electronic costing system to establish the price of the service and the relationship between the arcs of the nodes defining the order, by means of an ordered relationship, in which said operations have to be carried out by the electronic costing system (this recitation is nonfunctional descriptive material which describes the form of the tree...and is thus accorded little patentable weight).

b. an automatic conversion step by the electronic calculator of said tree structure acquired in a format directly readable by the electronic costing system (Column 3, lines 29-63; Column 15, lines 50-54; Column 9, lines 40-64) (Carter teaches a user constructing the tree structure and then having a system incorporate the pricing tree structure in order to develop a price for a purchaser).

23. As per **claim 26**, Carter further teaches, wherein the acquisition step comprises:

a. a sub-step of selecting a node in a library of pre-stored nodes being associated respectively with pre-defined parameterisable operations (Column 6, lines 41-63);

b. a sub-step of connecting the selected node during the selection sub-step to a father node (Column 13, lines 15-48), and;

c. a sub-step of parametering the operation of the node connected to the father node during the connection sub-step (Column 13, lines 15-48; Column 15, lines 50-53; Column 6, lines 17-40; Column 8, lines 40-63)

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

26. Claims 14-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter, III (US 5,878,400) in view of Ferguson et al. (US 5,819,092).

27. As per **claim 14**, Carter teaches an electronic editor for formula for calculating the price of a service designed to define said formula in a format directly readable by an electronic costing system, the electronic costing system being designed to establish, with the aid of said formula, the price of a service using information on the service consumed contained in consumption variables, said editor comprising:

c. an electronic calculator capable of defining the calculation formula and storing the calculation formula in a first means for storing information (Column 13, lines 30-48; Column 14, lines 1-7; Column 14, lines 42-60), wherein the calculator comprises:

i. an acquisition module for said formula in the form of a tree structure formed from nodes, connected to one another by arcs, each node being associated with a calculating operation designed to be executed by the costing system to establish the price of the service and the relationship between arcs of the nodes defining the order, by means of an ordered relationship, in which said operations have to be carried out by the electronic costing system (Abstract; Column 6, lines 17-40; Column 8, lines 60-67; Column 10, lines 14-21), and;

ii. a module designed to convert automatically the acquired tree structure into a directly readable format by the electronic costing system (Column 6, lines 4-35; Column 7, lines 63-67).

Carter does not explicitly teach, a module designed to store the converted tree structure in the first means for storing information.

However, Ferguson teaches a similar software module and the software module of Ferguson indeed includes, storing the converted formula in the first means for storing information (Column 12, lines 57-66).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated, storing the converted formula/converted tree structure in the first means for storing information, in accordance with the teachings of Ferguson in order for the software electronic calculator of Carter to easily access the developed pricing structure and incorporate the tree structure into the electronic costing system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

28. As per **claim 15**, Carter further teaches, wherein the calculator comprises a module for displaying the tree structure during acquisition or when acquired (Column 5, lines 45-54).

29. As per **claim 16**, Carter further teaches, wherein the acquisition module is capable of creating, under the control of the user, a first level node in said tree structure solely associated with the operation for activating child nodes of this node in response to receiving a new value for one of the consumption variables processed by a calculation operation associated with one of the child nodes (Column 10, lines 44-67; Column 13, lines 15-50; Column 14, lines 1-7; Column 14, lines 43-60) (The claim limitation, "capable of creating," and the limitations that follow such limitation is the intended use of the acquisition module. Applicant is reminded that a recitation of the intended use of the claimed invention must result in structural differences between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art...if the prior art structure is capable of performing the intended use, then it meets the claim).

30. As per **claim 17**, Carter further teaches, wherein the acquisition module is capable of creating, under the control of the user, a first-level node in said tree structure, solely associated with the operation for activating its child nodes and the calculation operation associated therewith, at predetermined time intervals (Column 17, lines 15-48) (As to the underlined intended use clause, examiner respectfully requests applicant to see the rejection of claim 16).

31. As per **claim 18**, Carter further teaches, wherein the acquisition module is capable of creating, under the control of the user, a processing node in said tree structure, solely associated with an operation for calculating a new value from the values of the consumption variables and pre-existing calculated variables and for allocating this new value to a consumption variable or to a pre-existing or new calculated variable (Column 17, lines 15-48) (As to the underlined intended use clause, examiner respectfully requests applicant to see the rejection of claim 16).

32. As per **claim 19**, Carter further teaches, wherein the acquisition module is capable of creating, under the control of the user, a decision node solely associated with a conditional activation operation of all of its child nodes and the calculation operation associated therewith, using the value of a consumption variable or a calculated variable (Column 15, lines 50-64) (As to the underlined intended use clause, examiner respectfully requests applicant to see the rejection of claim 16).

33. As per **claim 20**, Carter further teaches, wherein the acquisition module is capable of creating, under the control of a user, a split node solely associated with an operation for extracting from the value of a consumption variable or a calculated variable, a range of values either between a lower limit and an upper limit, or outside these limits, the child nodes processing the range of values extracted (Column 13, lines 15-48) (As to the underlined intended use clause, examiner respectfully requests applicant to see the rejection of claim 16).

34. As per **claim 21**, Carter further teaches, wherein the acquisition module is capable of creating, under the control of a user, a node in the tree structure, solely

associated with an operation for unit conversion of a calculated price (Column 18, lines 50-60) (As to the underlined intended use clause, examiner respectfully requests applicant to see the rejection of claim 16).

35. As per **claim 22**, Carter further teaches, wherein the acquisition module is capable of creating, under the control of a user, an ending in the tree structure, solely associated with an operation for calculating a price and with an operation for stopping the costing system from passing through the tree structure (Column 14, lines 15-24) (As to the underlined intended use clause, examiner respectfully requests applicant to see the rejection of claim 16).

36. As per **claim 23**, Carter further teaches, wherein the editor comprises second means for storing information containing a library of pre-stored nodes associated respectively with pre-defined parametrizable operations and wherein the acquisition module comprises a sub-module for selecting nodes contained the library, a sub-module for connecting nodes selected with the aid of the selection sub-module to a father node and a sub-module for parametering the parameterisable operations associated with the nodes of the library (Column 6, lines 41-63).

Conclusion

37. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

38. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of

the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN EPSTEIN whose telephone number is (571)270-5389. The examiner can normally be reached on Monday-Thursday 7:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. E./
Examiner, Art Unit 3628
December 12, 2008

/John W Hayes/
Supervisory Patent Examiner, Art Unit 3628